

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 05-12170
Non-Argument Calendar

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT SEPTEMBER 29, 2005 THOMAS K. KAHN CLERK

D. C. Docket No. 03-00923-CV-WSD-1

SUSAN KINGSLEY,
individually, as surviving spouse
of Scott Kingsley, Deceased, and
as Administratrix of the Estate of
Scott Kingsley, Deceased,

Plaintiff-
Counter-Defendant-
Appellant,

versus

STATE FARM MUTUAL
AUTOMOBILE INSURANCE COMPANY,

Defendant-
Counter-Claimant-
Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(September 29, 2005)

Before ANDERSON, WILSON and PRYOR, Circuit Judges.

PER CURIAM:

Susan Kingsley (“Kingsley”) appeals the district court’s order granting summary judgment in favor of State Farm Mutual Automobile Insurance Company (“State Farm”) and denying her motion for partial summary judgment as inappropriate.¹

Kingsley filed the instant suit seeking damages for State Farm’s alleged tortious refusal to settle Kingsley’s claim against Donna Beam, State Farm’s insured, after a car accident in which Kingsley’s husband was fatally injured. In granting summary judgment in State Farm’s favor on Kingsley’s claim, the district court concluded that State Farm: (1) did not know, nor should it reasonably have known, that settlement within the Policy limits was possible; and (2) did not fail to take sufficient steps to obtain a settlement within a reasonable time.

Upon a *de novo* review of the record and consideration of the parties’ briefs, we agree with the district court that there is no reasonable basis to conclude that

¹Kingsley devotes a substantial portion of her brief to an argument concerning the district court’s April 14, 2003 order disallowing her Notice of Voluntary Dismissal. However, because Kingsley did not cite this order in her Notice of Appeal, we do not have jurisdiction to reach the merits of this issue. Fed. R. App. P. 3(c)(1)(B); *see also Whetstone Candy Co. v. Kraft Foods Co.*, 351 F.3d 1067, 1079-80 (11th Cir. 2003). In fact, at no point prior to filing her initial brief did Kingsley challenge this order of the district court by way of a motion for reconsideration, a motion to dismiss the complaint, or by seeking interlocutory review of the order. Instead, Kingsley filed an answer to State Farm’s counterclaim, participated in discovery, and ultimately filed an unsuccessful motion for partial summary judgment.

State Farm tortiously refused to settle Kingsley's claim against its insured.

Accordingly, we affirm the district court's order granting summary judgment in State Farm's favor and denying Kingsley's motion for partial summary judgment.

AFFIRMED.